

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

MARTIN MALBERG,
Plaintiff,

v.

CHRISTINE GARCIA-SEN, et al.,
Defendants.

Case No. 23-cv-01006-VKD

**ORDER DIRECTING PLAINTIFF TO
SHOW CAUSE WHY ACTION
SHOULD NOT BE DISMISSED FOR
FAILURE TO PROSECUTE AND
COMPLY WITH COURT ORDERS**

Plaintiff Martin Malberg, who is representing himself, filed this action on March 6, 2023 and paid the filing fee. Dkt. No. 1. Upon the filing of the complaint, an initial case management conference was set for June 6, 2023. Dkt. No. 2. Mr. Malberg subsequently filed an amended complaint on April 3, 2023, purporting to name an additional defendant. Dkt. No. 3.

On May 3, 2023, the Court issued an order reminding Mr. Malberg of the deadline for service of process, the need to present summons form(s) to the Clerk's Office, and the need to keep the Court apprised of his current contact information.¹ Dkt. No. 4. In that order, the Court directed Mr. Malberg to file by May 30, 2023 "(1) proof that he has completed service on the defendants, (2) proof that the defendants have waived service of summons, or (3) a report regarding the status of his efforts to complete service on the defendants." *Id.* That order further

¹ Mail sent to Mr. Malberg's address of record in Mountain View, California has been returned to the Court as undeliverable. *See* Dkt. No. 6, 9. Although he has not filed a formal notice advising the Court of alternate contact information, the Court also sent notice of its May 3, 2023 order to P.O Box 540 in Silver Springs, Nevada 89429 listed on the mailing envelope docketed with Mr. Malberg's April 3, 2023 amended complaint. The Court has not received any notice that the order sent to the Nevada post office box could not be delivered.

1 advised that the Court would recommend dismissal of this action if Mr. Malberg failed to respond
2 to the order, or to otherwise obtain an extension of time for good cause shown. *Id.*

3 Although the docket indicates that the Clerk's Office issued summons forms on May 3,
4 2023 (Dkt. No. 5), to date, there is no indication on the docket that any defendant has been served
5 with process. Nor did Mr. Malberg comply with the order to file a status report regarding service,
6 and the May 30, 2023 deadline for doing so has passed.

7 On June 1, 2023, the Court issued a notice that the June 6, 2023 initial case management
8 conference would be conducted via Zoom webinar. The notice provided Mr. Malberg with the
9 webinar access information and a link for Zoom guidance and setup. *See* Dkt. No. 7. The Court
10 sent that notice to Mr. Malberg's address of record in Mountain View, California, as well as to the
11 Nevada post office box and to the martin.malberg@stardustcap.net email address listed in his
12 pleadings. Although mail sent to the Mountain View address has been returned to the Court as
13 undeliverable (Dkt. No. 9), the Court has received no such notice for the papers sent to the Nevada
14 post office box or to the stardustcap.net email address.

15 The Court held an initial case management conference on June 6, 2023. No appearances
16 were made by Mr. Malberg or any defendants, either via Zoom or in person at the Court. *See* Dkt.
17 No. 8.

18 Mr. Malberg is responsible for prosecuting this action and for timely complying with
19 court-ordered deadlines. To the extent any of his contact information may have changed, he is
20 also responsible for keeping the Court apprised of his current contact information. *See* Civil L.R.
21 3-11. The Court is concerned by Mr. Malberg's failure to respond to communications from the
22 Court, as well as his failure to appear at the case management conference.

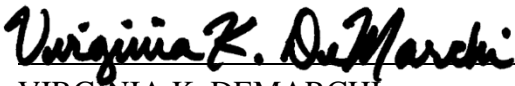
23 The Court possesses the inherent power to dismiss an action sua sponte "to achieve the orderly
24 and expeditious disposition of cases." *Link v. Wabash R.R. Co.*, 370 U.S. 626, 629-33 (1962). By
25 **June 27, 2023**, Mr. Malberg shall file a written response to this order explaining why this action
26 should not be dismissed for his failure to prosecute this case and to comply with court orders. If Mr.
27 Malberg fails to respond to this order by the June 27, 2023 deadline, the Court will reassign this action
28 to a district judge, with the recommendation that the action be dismissed without prejudice for failure

1 to prosecute and to comply with court orders.

2 As Mr. Malberg has not confirmed his current contact information for the Court, the Clerk of
3 the Court shall mail a copy of this order to him at the address of record in Mountain View, California,
4 as well as to the Nevada post office box and the stardustcap.net email address indicated in his other
5 filings.

6 **IT IS SO ORDERED.**

7 Dated: June 12, 2023

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10 VIRGINIA K. DEMARCHI
11 United States Magistrate Judge
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United States District Court
Northern District of California